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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/921,003	08/01/2001	Mark Killmer	25720-702	5843
21971 7590 07/24/2008 WILSON SONSINI GOODRICH & ROSATI 650 PAGE MILL ROAD PALO ALTO, CA 94304-1050				
EXAMINER WIDHALM, ANGELA M				
ART UNIT 2152		PAPER NUMBER		
MAIL DATE 07/24/2008		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

## Application No.

09/921,003

## Applicant(s)

KILLMER, MARK

## Examiner

ANGELA WIDHALM

## Art Unit

2152

**Period for Reply**  
-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) 15-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 34-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Final Drawing Review (PTO-64C)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Claims 1-14 and 34-37 are presented for examination. Claims 15-33 are withdrawn.

### ***Reopening Prosecution***

2. In view of the Reply Brief filed on 21 April 2008, PROSECUTION IS HEREBY REOPENED.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

### ***Response to Arguments***

3. Appellant argues that Guheen does not disclose alternative online sites, however examiner respectfully disagrees. Guheen describes selecting links to access related online sites (see col. 205 lines 65-66). These related online sites are interpreted as being equivalent to the claimed alternative online sites. Guheen also describes presenting a comparative analysis of at least two vendors of web-based

products/services (see fig. 10 #45). Fig. 23 illustrates comparing products/services, catalog of products/services, and providing quotes (prices, availability). Guheen later describes outputting a comparison between different web-based products and services offered by competitors (fig. 66 #1504, col. 170 lines 56-61, col. 170 lines 29-31). The explanations provided above clearly show that Guheen describes determining alternative online sites.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-14 and 34-37 are rejected under 35 U.S.C. 102(e) as being anticipated by Guheen et al., (hereinafter Guheen), US Patent 6,721,713.

6. As to claims 1 and 34, Guheen discloses in Fig. 23C a computer program product on a network-connected device including means for comparing (comparing products/services) a URL, title and/or content of an online site viewed by a user with a first index of keywords relating to a plurality of subject matter categories, to determine any subject matter categories to 'which the online site relates', means for cross-

referencing any determined subject matter categories with a second index of alternative online sites categorized by subject matter, in order to determine any alternative online site in the same or similar category; and means for displaying any determined alternative online sites to the user (see col. 170 lines 30-66; col. 178 lines 20-36; col. 187 lines 1-65).

7. As to claims 5 and 10, Guheen discloses a method of comparative advertising in an online environment including the steps of analyzing an online site viewed by a user to identify products or subject matter advertised on the site; displaying to the user information relating to competing products or subject matter on alternative online sites (see col. 170 lines 56-65).

8. As to claims 2 and 35, Guheen discloses a first and second indexes are contained in a database remote from the computer program product (see fig. 3).

9. As to claims 3-4, 6-7, and 36-37, Guheen discloses means for determining a geographic locality relating to the user; and means for determining any alternative sites in the same or proximate geographical locality to that relating to the user, so that the displaying means displays any of the determined alternative sites in the same or a similar subject matter category, that are also in the same or proximate geographical locality; and the step of determining a geographical locality relating to the user and only displaying alternative sites in the same or a proximate geographical locality wherein the

geographical locality relating to the user is determined by analyzing the user's electronic address and/or the address of the online site viewed by the user (see col. 174 lines 62 – col. 175 line 1; fig. 10).

10. As to claims 8-9 and 11-12, Guheen discloses the information displayed to the user includes hyperlinks to the alternative online site considered as a link to related data (see col. 170 lines 56-66); and discloses the analysis step is performed by analyzing the URL, title and/or content of the online site (see col.177 lines 21-66, col.180 lines 20-42).

11. As to claims 13-14, Guheen discloses the displayed information includes a price of the competing products; and including the steps of determining whether the competing product prices is less than the price of the identified product on the online site viewed by the user, and if less, displaying the competing product price to the user; or if not less, ascertaining a best price relating to the competing product and displaying the best price to the user or a value in-between (see fig. 66; col. 170 lines 44-64).

### ***Conclusion***

12. **Examiner's Note:** Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing

responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angela Widhalm whose telephone number is (571) 272-1035. The examiner can normally be reached M-F, 9:00 am - 5:30 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on (571) 272-3913. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

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USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. W./  
Examiner, Art Unit 2152  
17 July 2008

/Bunjob Jaroenchonwanit/

Supervisory Patent Examiner, Art Unit 2152